

RECEIVED

DEC 14 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY



ORIGINAL

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

EX PARTE OR LATE FILED

Ex Parte Presentation

Re: *Application by SBC Communications Inc. for Authorization Under Section 271 of the Communications Act to Provide In-Region Interlata Service in the States of Kansas and Oklahoma. Docket No. 00-217*

Dear Ms. Salas:

The purpose of this written *ex parte* is to provide further support for the proposition that SBC's rates in Kansas and Oklahoma are within the "range that the reasonable application of TELRIC principles would produce."¹ SBC continues to believe that a state-by-state comparison is inappropriate. See Reply Comments at 3-7. However, it submits this *ex parte* to rebut suggestions that the difference in rates between Kansas, Oklahoma, and Texas is based on anything other than legitimate state-based differences in costs and inputs. The rates established in all three states conform to the FCC's TELRIC rules.

In their Comments on SBC's application, some parties have contended that the prices in Kansas and Oklahoma are excessive, and are not based upon this Commission's TELRIC rules.² In support of their contentions, these parties have argued that the rates in Kansas and Oklahoma cannot be cost based because some of the rates are higher than similar rate elements in Texas, which were found by the Commission to be based upon TELRIC principles. In its Reply Brief and supporting Reply Affidavits filed on December 11, 2000, SBC responded to these allegations by pointing out that any differences in the rates are based upon differences in the costs in Kansas, Oklahoma, and Texas, and differences in the geographic zones between the three states. Moreover, SBC demonstrated that a comparison of the rates in Texas with those in Kansas and Oklahoma clearly illustrates that the Texas rates for specific unbundled network elements may actually be higher than the rates in comparably sized exchanges in Kansas and Oklahoma and that the total

¹ *Bell Atlantic New York Order* 15 FCC Rcd at 3962, para. 244.

² See comments filed by AT&T, IP Communications, and Sprint; and the DOJ Evaluation.

No. of Copies rec'd _____
List ABCDE

04

monthly rate for the UNE platform in Texas is virtually the same as or higher than in Kansas or Oklahoma.³

Citing the DOJ Evaluation, most CLECs have now filed Reply Comments criticizing the rates in Kansas and Oklahoma while providing no empirical evidence to support their position.

In order to respond to these recent criticisms, SBC has further refined its analysis of the UNE platform rate comparison for Kansas, Oklahoma, and Texas.⁴ Comparing comparably sized exchanges yields the following results: the total monthly rate for the UNE platform is \$16.04 in Kansas; \$18.25 in Oklahoma; and between \$17.99 and \$21.80 in Texas. This analysis is significant because it compares the rates for those network elements most commonly ordered for mass market entry, and it explains the amount that a CLEC would pay for the UNE platform in Kansas, Oklahoma, and Texas in comparably sized exchanges. It shows that the total monthly rate for the UNE platform in exchanges located in “urban” communities in Kansas and Oklahoma, where local competition is likely to be the greatest,⁵ is at the very lowest end of the range of rates applicable in Texas. This conclusively demonstrates that the rates in Kansas and Oklahoma are within the range of reasonableness.

In performing this analysis, SBC first identified the comparably sized exchanges in Kansas, Oklahoma, and Texas. As noted in the Reply Affidavits of Charles H. Cleek and James L. Jones, there are no Kansas or Oklahoma exchanges that fall within the Texas Urban category. All of the Kansas and Oklahoma Urban exchanges would fall into either the Texas Suburban or Rural categories, and all of the Kansas and Oklahoma Suburban and Rural exchanges would fall into the Texas Rural category. Hence, the appropriate comparison is the total monthly rate for the UNE platform in Kansas and Oklahoma Urban exchanges with that in the Texas Suburban exchanges.

In order to calculate the total monthly rate for the UNE platform in Texas, SBC took into account the fact that the analog switch port and the local switching minute per use rates vary depending upon the particular size of the switch that is serving the end-user customer. In the T2A, there are four levels of switches, each with a different analog-

³ SBC Reply Brief at pp. 7-9, Cleek Reply Affidavit at pp. 12-15, and Jones Reply Affidavit at pp.17-22.

⁴ The original calculation of the UNE Platform rates for comparison between Kansas, Oklahoma, and Texas filed in an ex parte on December 1, 2000 did not take into account differences in the definition of urban, suburban, and rural exchanges between these states nor the variation in analog switch port and local switching minutes of use rates among different level of switches in Texas. In addition, the original comparison included the loop to collocation cross connect rather than analog loop to switch port cross connect recurring rates, and misstated the Texas only nonrecurring initial rate for the analog loop to switch port cross connect and electronic service order charge.

⁵ 76% of the access lines in Kansas and 64% of the access lines in Oklahoma are located in the Urban zone.

switch-port rate and local-switching-minute-per-use rate. Any one of the four levels of switches can be located in any one of the three categories of exchanges. Level 1 switches serve from 0 to 10,000 working lines; Level 2 switches serve from 10,001 to 20,000 working lines; Level 3 switches serve from 20,001 to 40,000 working lines; and Level 4 switches serve 40,001 or more working lines. The analog switch port rate is \$4.21 for Level 1, \$3.05 for Level 2, \$2.47 for Level 3, and \$1.58 for Level 4. The local switching minute per use rate is \$0.0021160 for Level 1, \$0.0011973 for Level 2, \$0.0012691 for Level 3, and \$0.0014244 for Level 4.

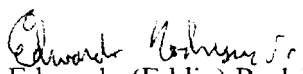
Finally, SBC calculated the total monthly rate for the UNE platform in Kansas, Oklahoma, and Texas for the comparably sized exchanges where CLECs were most likely to enter the local market. SBC assumed a UNE platform configuration with 1400 minutes of local calling and 300 minutes of access calls per month.⁶ As stated above, the UNE-P prices for comparably sized exchanges in Kansas, Oklahoma, and Texas are, \$16.04, \$18.25, and between \$17.99 and \$21.80 respectively.

Attachment 1 is an expanded version of the chart in paragraph 20 on page 14 of the Reply Affidavit of Charles H. Cleek taking this calculation into account in the comparison between Kansas and Texas.

Attachment 2 is an expanded version of the information in paragraph 37 on page 18, paragraph 39 on page 19, and the chart in paragraph 43 on page 21 of the Reply Affidavit of James L. Jones taking this calculation into account in the comparison between Oklahoma and Texas.

Attachment 3 is an expanded version of the UNE-Platform Rate Comparison that was attached to the ex parte filing made by SBC on December 1, 2000 providing notice of a conference call with the Competitive Pricing Division to discuss recurring and nonrecurring rates. It displays the individual UNE rates, includes a comparison of the total monthly rate for the UNE platform between Kansas and Oklahoma Urban zones and the Texas Suburban zone, and makes certain other corrections to the rates originally stated in this comparison.

Sincerely,


Edwardo (Eddie) Rodriguez Jr.
Director – Federal Regulatory

Attachments

⁶ This assumption was based upon that used by the Texas PUC in its costing and pricing scenarios developed as part of the mega-arbitration in 1997-1998, which assumed 1800 MOU local traffic. SBC conservatively reduced that to 1400 MOU local and 300 MOU access.

Attachment 1 | Cleek Para 20 Charts |

ELEMENT	KANSAS NON-RECURRING	KANSAS NON-RECURRING AMORTIZED	KANSAS RECURRING	TOTAL
2 WIRE LOOP	\$30.75	\$1.28	\$11.86	\$13.14
ANALOG SW. PORT			\$1.61	\$1.61
ANALOG LOOP TO SWITCH PORT CROSS CONNECT	\$26.70	\$1.11	\$0.00	\$1.11
LOCAL SW. P.M.O.U.			\$0.001310	\$2.23
BLENDED TRANS. PER MOU			\$0.0004010	\$0.34
SERVICE ORDER	\$5.00	\$0.21		\$0.21
TOTAL		\$2.60	\$16.04*	\$18.64*

ELEMENT	TEXAS NON-RECURRING	TEXAS NON-RECURRING AMORTIZED	TEXAS RECURRING	TOTAL
2 WIRE LOOP	\$15.03	\$0.63	\$13.65	\$14.28
ANALOG SW. PORT***	\$1.27	\$0.05	\$1.58 / \$2.47 \$3.05 / \$4.21	\$1.63 / \$2.52 \$3.10 / \$4.26
ANALOG LOOP TO SWITCH PORT CROSS CONNECT	\$4.17	\$0.17	\$0.00	\$0.17
LOCAL SW. P.M.O.U. ***			\$,0014244 / \$,0012691 \$,0011973 / \$,0021160	\$2.42 / \$2.16 \$2.04 / \$3.60
BLENDED TRANS. PER MOU			\$0.000399	\$0.34
SERVICE ORDER	\$2.58**	\$0.11		\$0.11
TOTAL		\$0.96	Range \$17.99 - \$21.80*	Range \$18.95 - \$22.76*

*Assumes UNE-P configuration with 1400 minutes of local calling and 300 minutes of access calls (of which 840 minutes are interswitch)

** Change in service order charge due to application of New Simple Service Order charge instead of Change Simple Service Order charge

*** Change in Texas rates due to Texas rates based on access lines served by switch instead of number of access lines within an exchange

Attachment 2 [Paragraphs 37, 38, 39, 43 and Chart]

37. Comparing Oklahoma UNE rates established in the alternate regulation Transition Plan approved in Cause No. PUD 99-613 to Texas UNE rates by using the equivalent exchange demographics shows how the rates are actually lower in Oklahoma than in Texas for these elements:

	<u>Oklahoma</u>	<u>Texas</u>
2 Wire Analog Loop	\$12.14 (Urban) \$13.65 (Suburban)	\$13.65 (Suburban) \$18.98 (Rural)
Analog Switch Port	\$ 2.18 (Urban) \$ 2.21 (Suburban)	<u>Texas 4 Levels</u> \$1.58 / \$2.47 / \$3.05 / \$4.21 \$1.58 / \$2.47 / \$3.05 / \$4.21

38. The rates for 2 wire analog loops in zones 2 and 3 are \$13.65 and \$12.14 respectively. These are exactly the same rates that are found in the Texas 271 Agreement (“T2A”) for zones 2 and 3, which are significantly more densely populated than the same zones in Oklahoma. Likewise, the analog switch port rates in the O2A compare very favorably when aligned with the rates contained in the T2A. Therefore, the rates associated with two of the major UNEs that are required to provide “plain old telephone service” (“POTS”) are significantly lower in Oklahoma than in the equivalent zones in Texas.

39. The following comparison of UNE-P pricing, using zones of equivalent line sizes in Oklahoma and Texas, further clarifies this difference:

	Recurring	Nonrecurring
Oklahoma Zone 1/ <u>Urban</u>	\$ 18.25	\$ 69.24
Texas Zone 2/ <u>Suburban</u>	Range <u>\$17.99 to \$21.80</u>	<u>\$ 23.05 *</u>
Difference	(\$.26) to \$ 3.55	\$ 46.19
<hr/>		
Oklahoma Zone 2/ <u>Suburban</u>	\$ 19.64	\$ 69.24
Texas Zone 3/ <u>Rural</u>	Range <u>\$ 23.32 to \$ 27.13</u>	<u>\$ 23.05 *</u>
Difference	\$ 3.68 to \$ 7.49	\$ 46.19

* The Texas PUC chose *not* to apply certain tariffed nonrecurring charges, which were first introduced in the Texas General Exchange Tariff in January of 1977 and have not been updated since December 1990. These charges include the Central Office Access Charge (residence = \$16.35 and business = \$21.30) and the Trip Charge (which is applied when SWBT dispatches a technician) of \$14.60. These costs elements were appropriately included in the cost studies which support Oklahoma's nonrecurring loop and cross connect charges.

43. In the two charts below, I have assumed that the nonrecurring charges in both Texas and Oklahoma are amortized over a two-year period, and then I have compared the total monthly charges for UNE-P between the two states. Based upon these charts, it

is clear that, even including nonrecurring charges in this analysis, the costs for operating, in comparably sized exchanges, in Oklahoma over a two-year period is not significantly different from the operating costs in Texas, even though, as demonstrated in the joint affidavit of Smith/Ries, the costs in Oklahoma exceed the costs in Texas. The comparison in the charts is between Oklahoma's urban rates and Texas's suburban rates.

ELEMENT	OKLAHOMA NON-RECURRING	OKLAHOMA NON-RECURRING AMORTIZED	OKLAHOMA RECURRING	TOTAL
2 WIRE LOOP	\$24.38	\$1.02	\$12.14	\$13.16
ANALOG SW. PORT	\$1.20	\$.05	\$2.18	\$2.23
ANALOG LOOP TO SWITCH PORT CROSS CONN.	\$40.33	\$1.68	\$0.00	\$1.68
LOCAL SW. P.M.O.U.			\$0.002041	\$3.47
BLENDED TRANS. PER MOU			\$0.000546	\$0.46
SERVICE ORDER	\$3.33	\$0.14		\$0.14
TOTAL		\$2.89	\$18.25*	\$21.14*

ELEMENT	TEXAS NON-RECURRING	TEXAS NON-RECURRING AMORTIZED	TEXAS RECURRING	TOTAL
2 WIRE LOOP	\$15.03	\$0.63	\$13.65	\$14.28
ANALOG SW. PORT***	\$1.27	\$0.05	\$1.58 / \$2.47 \$3.05 / \$4.21	\$1.63 / \$2.52 \$3.10 / \$4.26
ANALOG LOOP TO SWITCH PORT CROSS CONNECT	\$4.17	\$0.17	\$0.00	\$0.17
LOCAL SW. P.M.O.U.***			\$.0014244 / \$.0012691 \$.0011973 / \$.0021160	\$2.42 / \$2.16 \$2.04 / \$3.60
BLENDED TRANS. PER MOU			\$0.000399	\$0.34
SERVICE ORDER	\$2.58**	\$0.11		\$0.11
TOTAL		\$0.96	Range \$17.99 - \$21.80*	Range \$18.95 - \$22.76*

*Assumes UNE-P configuration with 1400 minutes of local calling and 300 minutes of access calls (of which 840 minutes are interswitch).

** Change in service order charge due to application of New Simple Service Order charge instead of Change Simple Service Order charge.

*** Change in Texas rates due to Texas rates based on access lines served by switch instead of number of access lines within an exchange.

The nonrecurring charge for pre-existing UNE-P combinations has been set at \$0.00 by the OCC on an interim basis. The OCC will established permanent rates in a future proceeding for these nonrecurring charges. The charts above clearly indicate that the costs determined by the Oklahoma Corporation Commission, in the Cause Nos. PUD 97-213 and PUD 99-613, have not created a barrier to entry for competitors who wish to do business in the state of Oklahoma. Further, these charts show that the Oklahoma rates are well within the range of reasonableness.

UNE-PLATFORM RATE COMPARISON

12/13/00

	RECURRING RATES			NONRECURRING INITIAL RATES		
	KANSAS	OKLAHOMA	TEXAS	KANSAS	OKLAHOMA	TEXAS
<u>2 WIRE ANALOG LOOP</u>						
URBAN	\$11.86	\$12.14	\$12.14	\$30.75	\$24.38	\$15.03
SUBURBAN	\$13.64	\$13.65	\$13.65	\$30.75	\$24.38	\$15.03
RURAL	\$23.34	\$26.25	\$18.98	\$30.75	\$24.38	\$15.03
<u>ANALOG SWITCH PORT **</u>						
			TEXAS LEVEL			
	-	-	4	\$1.58	-	\$1.27
KANSAS/OKLAHOMA URBAN	\$1.61	\$2.18	3	\$2.47	N/A	\$1.20
KANSAS/OKLAHOMA SUBURBAN	\$1.61	\$2.21	2	\$3.05	N/A	\$1.20
KANSAS/OKLAHOMA RURAL	\$1.61	\$2.58	1	\$4.21	N/A	\$1.20
<u>ANALOG LOOP TO SWITCH PORT CROSS CONNECT</u>						
URBAN	\$0.00	\$0.00	\$0.00	\$26.70	\$40.33	\$4.17
SUBURBAN	\$0.00	\$0.00	\$0.00	\$26.70	\$40.33	\$4.17
RURAL	\$0.00	\$0.00	\$0.00	\$26.70	\$40.33	\$4.17
<u>LOCAL SWITCHING, PER MOU **</u>						
			TEXAS LEVEL			
	-	-	4	\$0.0014244	-	None
KANSAS/OKLAHOMA URBAN	\$0.00131	\$0.002041	3	\$0.0012691	None	None
KANSAS/OKLAHOMA SUBURBAN	\$0.00169	\$0.001887	2	\$0.0011973	None	None
KANSAS/OKLAHOMA RURAL	\$0.00253	\$0.002850	1	\$0.0021160	None	None
<u>COMMON TRANSPORT TERMINATION, PER MOU</u>						
URBAN	\$0.0001570	\$0.000240	\$0.000123	None	None	None
SUBURBAN	\$0.0001710	\$0.000212	\$0.000135	None	None	None
RURAL	\$0.0001960	\$0.000374	\$0.000144	None	None	None
<u>COMMON TRANSPORT FACILITY, PER MOU, PER MILE</u>						
URBAN	\$0.0000010	\$0.000007	\$0.0000011	None	None	None
SUBURBAN	\$0.0000030	\$0.000036	\$0.0000032	None	None	None
RURAL	\$0.0000060	\$0.000020	\$0.0000101	None	None	None
<u>BLENDED TRANSPORT, PER MOU</u>						
URBAN	\$0.000401	\$0.000546	\$0.000399	None	None	None
SUBURBAN	\$0.000429	\$0.000682	\$0.000399	None	None	None
RURAL	\$0.000475	\$0.000729	\$0.000399	None	None	None
<u>TANDEM SWITCHING, PER MOU</u>	\$0.000789	\$0.000794	\$0.000794	None	None	None
<u>SERVICE ORDER</u>						
ELECTRONIC				\$5.00	\$3.33	\$2.58
MANUAL				\$15.00	\$31.17	
TOTAL *						
Kansas/Oklahoma Urban	\$16.04	\$18.25	-	\$62.45	\$69.24	
Texas Suburban **						
Level 4 (Switches serving over 40,001 working lines)			\$17.99			\$23.05
Level 3 (Switches serving 20,001-40,000 working lines)			\$18.62			\$23.05
Level 2 (Switches serving 10,001-20,000 working lines)			\$19.08			\$23.05
Level 1 (Switches serving less than 10,000 working lines)			\$21.80			\$23.05

*Assume UNE-P configuration with 1400 minutes of local calling and 300 minutes of access calls.

**Texas levels do not correspond to Kansas/Oklahoma geographic areas for local switching ports and MOU.